



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2019-0636: FRL-10005-19-Region 10]

Air Plan Approval; WA; Updates to Source-Category Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) that were submitted by the Department of Ecology (Ecology). In 1991, Ecology established source-category regulations for kraft pulp mills, sulfite pulping mills, and primary aluminum plants. These source-category regulations contain requirements specific to these types of facilities. However, the source-category regulations also rely upon cross-references to the general air quality regulations to implement program elements such as new source review permitting. Since 1991, many of the cross-references to the general regulations for air pollution sources have changed. The EPA is approving a revision to the SIP updating the cross-references and other miscellaneous changes.

DATES: This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2019-0636. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will

be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue – Suite 155, Seattle, WA 98101, at (206) 553-0256, or hunt.jeff@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever “we,” “us,” or “our” is used, it means the EPA.

I. Background

On November 5, 2019, Ecology submitted updated portions of Chapters 173-405, 173-410, and 173-415 Washington Administrative Code (WAC) for approval into the SIP. On December 4, 2019, the EPA proposed to approve the submitted changes (84 FR 66366). The reasons for our proposed approval were stated in the proposed rule and will not be re-stated here. The public comment period for our proposed action ended on January 3, 2020. We received no comments.

II. Final Action

We are approving and incorporating by reference into the Washington SIP the revisions to Chapters 173-405, 173-410, and 173-415 WAC, State effective May 24, 2019, submitted by Ecology on November 5, 2019. We are also removing from the SIP the outdated and subsequently repealed provisions of WAC 173-415-045, 173-415-050, 173-415-051, and 173-415-080.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference

as described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

¹ 62 FR 27968 (May 22, 1997).

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not address technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 28, 2020.

Chris Hladick,
Regional Administrator,
Region 10.

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart WW—Washington

2. Amend § 52.2470(c), Table 1:

- a. Under the heading “Washington Administrative Code, Chapter 173-405 -- Kraft Pulping Mills”, by revising the entries “173-405-021”, “173-405-072”, “173-405-086”, and “173-405-087”;
- b. Under the heading “Washington Administrative Code, Chapter 173-410—Sulfite Pulping Mills” by revising the entries “173-410-021”, “173-410-062”, “173-410-086”, and “173-410-087”; and
- c. Under the heading “Washington Administrative Code, Chapter 173-415—Primary Aluminum Plants” by:
 - i. Adding the entry “173-415-015” in numerical order;
 - ii. Revising the entry “173-415-020”;
 - iii. Removing the entries “173-415-045”, “173-415-050”, and “173-415-051”;
 - iv. Revising the entry “173-415-060”; and
 - v. Removing entry “173-415-080”.

The revisions and additions read as follows:

§ 52.2470 Identification of plan.

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(c) * * *

TABLE 1—REGULATIONS APPROVED STATEWIDE

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173-405—Kraft Pulping Mills				
*	*	*	*	*
173-405-021	Definitions	5/24/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
173-405-072	Monitoring Requirements	5/24/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except 173-405-072(2).
*	*	*	*	*
173-405-086	New Source Review (NSR)	5/24/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except provisions related to WAC 173-400-114 and provisions excluded from our approval of WAC 173-400-110 through 173-400-113.
173-405-087	Prevention of Significant Deterioration (PSD)	5/24/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except 173-400-720(4)(a)(i through iv), 173-400-720(4)(b)(iii)(C), and 173-400-750(2) second sentence.
*	*	*	*	*
Washington Administrative Code, Chapter 173-410—Sulfite Pulping Mills				

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173-410-021	Definitions	5/24/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
* * * * *				
173-410-062	Monitoring Requirements	5/24/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
* * * * *				
173-410-086	New Source Review (NSR)	5/24/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except provisions related to WAC 173-400-114 and provisions excluded from our approval of WAC 173-400-110 through 173-400-113.
173-410-087	Prevention of Significant Deterioration (PSD)	5/24/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except 173-400-720(4)(a)(i through iv), 173-400-720(4)(b)(iii)(C), and 173-400-750(2) second sentence.
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Washington Administrative Code, Chapter 173-415—Primary Aluminum Plants				
* * * * *				
173-415-015	Applicability	5/24/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except 173-415-015(3).
173-415-020	Definitions	5/24/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except 173-415-020(6).
* * * * *				

173-415-060	Monitoring and Reporting	5/24/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except 173-415-060(1)(b).
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[FR Doc. 2020-03250 Filed: 2/25/2020 8:45 am; Publication Date: 2/26/2020]